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10/761,401	01/22/2004	Ola Olofsson	TPP 31436DIV	3311

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STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, DC 20036

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,401

Applicant(s)

OLOFSSON, OLA

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☒ Certified copies of the priority documents have been received in Application No. 10/058,968.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/22/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention of Group II (clms. 20-25) in the reply filed on December 28, 2004 is acknowledged. The failure to present any traversal arguments to the restriction requirement made in the previous Office Action renders the current election an election without traverse.

Applicant's response received December 28, 2004 to cancel claim 19 has been acknowledged.

Priority

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/058968, filed on January 30, 2002. However, the certified copy of Swedish Patent application 01000276-5 has as filing date of January 31, 2001, the Oath/Declaration of the presently presented application states priority to January 31, 2000. Correction is required.

For the purposes of examination, foreign priority filing is understood to be January 31, 2001.

Information Disclosure Statement

The information disclosure statement filed January 22, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. No copies of the non-patent literature publications have been received.

Specification

The disclosure is objected to for missing the following subtitles:

Cross Reference of Related Applications (where applicable)

Background of the Invention

Summary of the Invention

Brief Description of the Drawings

Detailed Description of the Drawings

Appropriate correction is required.

The disclosure is also objected to for the following informalities:

Pg. 1, line 13, "form" should be —from—

Correction is required

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim states, "*the board*", however a first and second board are positively recited in the parent claim 20; it is unclear which of these boards, "*the board*" refers to or if it refers to an additional separate board from that previously recited. Accordingly, there is insufficient antecedent basis for the recitation, "*the board*". Clarification is required.

Claim 27 fails to positively further limit the parent claim. For example, claim 26 states, at least one of the tongue and groove; claim 27 states at least the groove; i.e. if the groove of claim 26 comprises both milled and broached portions, then claim 27 is merely a duplicate of claim 26 and does not further limit claim 26. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3725

Claims 20-22, 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Serino et al. (6,357,197). With regard to claim 20, Serino discloses a system for forming a surface comprising a plurality of boards, the system comprising: a first board (17) having edges, at least one of the edges comprising a projection tongue (16); and a second board (13) having edges at least one of the edges comprising a depressed groove (20); wherein at least one of the tongue and the groove comprise a milled polymeric material (col. 3, lines 35-36) such that the tongue and groove are shaped to form a joint (fig. 1, 4A). Examiner notes a thermoplastic polymer to be a polymeric material.

With regard to claim 21, Serino discloses the tongue and groove both to comprise a milled polymeric material. Examiner notes the adhesive (19) between the tongue and groove to be a polymeric material because it consists of a thermoplastic. Applicants disclosure states, an admitted prior art that, thermoplastic is a type of polymeric material. Accordingly, because Serino discloses board (17) to be composed of a thermoplastic material and use of an adhesive (18) that is also a thermoplastic material, Serino anticipates, a tongue and groove comprised of polymeric material.

With regard to claim 22 as best as can be understood, Serino discloses the tongue (16) to be glued (18) to the board (13).

With regard to claim 24, Serino discloses the polymeric (thermoplastic) material subjected to extrusion and milling (col. 3, lines 35-50).

With regard to claim 25, Serino discloses at least one of the first board and the second board comprises a core, the core being formed from wood fiber (col.3, lines 14-17, 35-37).

Art Unit: 3725

Additionally, claims 20, 21, 23 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Martensson et al. (6,421,970). With regard to claims 20 and 23, Martensson discloses a system for forming a surface comprising a plurality of boards, the system comprising: a first board (7) having edges, at least one of the edges comprising a projection tongue (12); and a second board (6) having edges, at least one of the edges comprising a depressed groove (13); wherein at least one of the tongue and the groove comprise a milled polymeric material/thermoplastic/lacquer (col. 2, lines 40-48) such that the tongue and groove are shaped to form a joint (figs. 2-12).

With regard to claim 21, Martensson discloses the tongue and groove comprised of a polymeric material.

With regard to claim 25, Martensson discloses the at least one of the first and second board formed of a wood fiberboard (col. 2, lines 40-44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Serino et al. (6,357,197) in view of Martensson et al. (6,421,970). Serino discloses a polymeric material thermoplastic. Serino does not disclose the polymeric material to be selected from a group consisting of lacquer. Martensson teaches in a very similar art a system for forming boards

Art Unit: 3725

wherein a first and second board are manufactured with a mating tongue and groove joint profile, wherein the tongue and groove are comprised of a polymeric material. Martensson teaches the polymeric material to be selected from a group consisting of thermoplastic and lacquer (col., lines 40-47). Examiner notes a lacquer to be a cellulose coating; Martensson discloses several polymeric materials and specifically states, a cellulose product. Accordingly Martensson teaches selection of various polymeric materials one of which is a thermoplastic or lacquer/cellulose material.

Claims 26 and 27 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Serino et al. (6,357,197) in view of Seabra (4,951,391). As noted above, Serino disclose the tongue and groove to have milled portions for shaping the tongue and groove joint. Serino does not disclose at least one of the tongue and grove to comprise both milled and broached portions. Seabra teaches the fitting art, the use of a milling means used in conjunction with a broaching means to precisely mill joints in a fitting device (col. 1, lines 43-49) so as to create slots/recesses/grooves and fingers free of burrs. Because the references are concerned with similar problem (i.e. machining slots and complementary protrusions for fittings) it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Serino's milling means of the joint with a milling and broaching means so as to create a finished groove and finger/protrusion free of burrs and for creating a complementary joint.

Conclusion

Art Unit: 3725

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 17, 2005

Shelley Self



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700